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Attorney for Defendants

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII**

ANTHONY NESBIT,

Plaintiff,

vs.

DEPARTMENT OF PUBLIC
SAFETY, STATE OF HAWAII, et. al.

Defendants.

CIVIL NO. 03-00455 SOM-KSC
(Consolidated)

**DEFENDANTS FRANK J. LOPEZ
AND JAMES PROPOTNICK'S
RESPONSES TO THE PLAINTIFFS'
FIRST REQUEST FOR ANSWERS
TO INTERROGATORIES TO
DEFENDANTS**

WILLIAM KOTIS,

Plaintiff,

vs.

STATE OF HAWAII DEPT. OF
PUBLIC SAFETY, et. al.

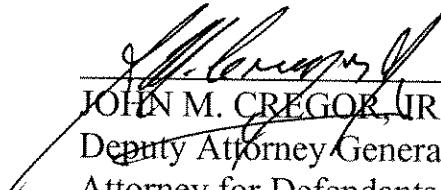
Defendants.

CIVIL NO. 04-00167 SOM-KSC
(Consolidated)

**DEFENDANTS FRANK J. LOPEZ and JAMES PROPOTNICK'S
RESPONSES TO THE PLAINTIFFS' FIRST REQUEST FOR ANSWERS
TO INTERROGATORIES TO DEFENDANTS**

COME NOW DEFENDANTS **FRANK J. LOPEZ** and **JAMES PROPOTNICK**, by and through their attorneys, Mark J. Bennett, Attorney General of Hawaii, and Dennis K. Ferm and John M. Cregor, Jr., Deputy Attorneys General, respond to **PLAINTIFFS' FIRST REQUEST FOR ANSWERS TO INTERROGATORIES TO DEFENDANTS** as modified and limited by United States Magistrate Judge Kevin S.C. Chang's Order of December 7, 2005, and attaches these answers hereto. Answers from the remaining defendants will be transmitted as they are received by counsel.

DATED: Honolulu, Hawai'i, March 31, 2006.


JOHN M. CREGOR, JR.
Deputy Attorney General
Attorney for Defendants
DEPARTMENT OF PUBLIC
SAFETY, STATE OF HAWAII,
JAMES L. PROPOTNICK, FRANK
LOPEZ, EDWIN SHIMODA,
NOLAN ESPINDA, ERIC
TANAKA, RANDY ASHER, SGT.
SAIA FINAU, CINDA SANDIN,
MONICA LIRTZ, CHERYL
ZEMBIK, LYLE KANOA, G.
SHERIDAN, and DAVID APAO

RESPONSES TO INTERROGATORIES FROM
DEFENDANT FRANK J. LOPEZ

1. Please state name, position and duties.

Answer:

Frank J. Lopez, Interim Director of Public Safety. I oversee the overall operation of the Department of Public Safety. I was appointed to the Deputy Director, Corrections, position in January 2003.

2. Were you trained in regards to prison gang management and control what training or instructions did you have concerning policy and procedures concerning prison gang members. When were you trained what was involved and how long was the training or instruction.

Answer:

I have not attended any training specifically on prison gang management.

3. Were you specifically trained or instructed in regards to the challenged housing practice of separating prison gangs from rival prison gangs and housing them in certain areas of Halawa prison (Quads) to what extent did you understand that this housing practice could be applied (in other words was it allowed to house a regular inmate (non-gang) member in with separated prison gang members.

Answer:

I have not received any specific training in how to house prison gangs.

4. How long has the practice of separating rival prison gangs been in effect and what are the reasons for separating the rival prison gangs?

Answer:

I have no specific recollection as to exactly how long this practice has been utilized by the Department of Public Safety. I believe that the reasons to separate prison gangs include minimizing the opportunity for violence, confrontations, and coercion.

5. Did you know that a regular inmate (non-gang member) could be housed with separated prison gang members (if answer is Yes what do you think about this practice?)

Answer:

Yes. Housing inmates together involves some risk regardless of any other factors. Administrators can only operate on the information they have available to them, so as not to put two inmates together that have a known issue or problem with each other. Absent specific information to that effect, sound correctional practices should dictate.

6. What is a Quad (how many inmates in a Quad) (about how many if exact number is not known).

Answer:

A quad is a housing unit, and the number of inmates housed within each quad varies from area to area, or facility.

7. How many separated prison gang members were in a Quad at one time (about how many).

Answer:

I have no specific information or independent recollection as to this question.

8. How many separated prison gang members were allowed in a Quad.

Answer:

I have no specific information or independent recollection as to this question.

9. What Quads in Halawa Medium and High Security Facility did separated prison gangs occupy?

Answer:

I have no specific information or independent recollection as to this question.

10. Since rival gangs were separated why didn't they separate regular inmates (non-gang) from separated prison gang members? Do you think they should have been separated (why or why not)?

Answer:

Housing inmates together involves some risk regardless of any other factors. Administrators can only operate on the information they have available to them, so as not to put two inmates together that have a known issue or problem with each other. Absent specific information to that effect, sound correctional practices should dictate.

11. Do you know of any regular inmates that were victimized when housed with separated prison gang members (describe).

Answer:

I have no specific information or independent recollection as to this question.

12. What are the policies or practices concerning the housing of a regular inmate with separated prison gangs?

Answer:

I have no specific information or independent recollection as to this question.

13. How many regular inmates (non-gang) requested protective custody for the last 5 years because they were beaten, threatened, or extorted by separated prison gang members. (some – a lot – plenty – a whole lot)?

Answer:

I have no specific information or independent recollection as to this question.

14. How many Grievances for the last 5 years did you receive or know of that complained of prison gang members threatening, extorting, or assaulting inmates (some – a lot – plenty – a whole lot)?

Answer:

I have no specific information or independent recollection as to this question.

15. Does the separation of rival prison gang members exist in both Medium and High Security Facilities? Who authorizes? This when and how long did this exist?

Answer:

I have no specific information or independent recollection as to this question.

16. Who do you know of including yourself if involved specifically authorized, allowed, approved of the practice of separating rival prison gangs and then housing a regular inmate in with them. When did you come to know this?

Answer:

I have no specific information or independent recollection as to this question.

17. When was the prison gang intelligence unit and task force created? What is there function? What do they accomplish? Who is in charge? And how many make up the task force?

Answer:

I have no specific information or independent recollection as to this question.

18. Who's decision was it to create the gang task force intelligence unit. Why was it created or why do you think it was created, when was it created?

Answer:

I have no specific information or independent recollection as to this question.

19. Are prison gangs a threat and danger to public order and safety (if Yes why if no why).

Answer:

Prison gangs have the potential to be a threat to the orderly operation of a facility.

20. Are prison gangs a threat and danger to regular inmates (if Yes why if no why).

Answer:

If allowed to operate outside the policies, prison gangs could present a potential threat to other inmates and staff.

21. What kind of screening procedures and classification procedures were used to determine compatibility between regular inmates (non-gang members) and separated prison gang members that they were ordered to be housed with them.

Answer:

I have no specific information or independent recollection as to this question.

22. Do you know of any abuses in the housing practice such as guards putting a regular inmate or gang member in with separated prison gang members so he will be beaten (names need not be mentioned but may be) describe as best you can.

Answer:

I have no specific information or independent recollection as to this question.

23. What is the nature and character of prison gangs? What is there purpose, goals, agenda?

Answer:

There are different prison gangs with a variety of different behaviors and practices. I do not have the expertise to expound on the nature and character of all the different prison gangs.

24. Do you know what the right to safe custody policy says. What do you think it means.

Answer:

I am not aware of a policy by this title.

25. Are you aware that you have a duty to protect prisoners from a foreseeable harm. Explain what your understanding of this is?

Answer:

I am aware that the Department of Public Safety has a duty to detain and incarcerate in a safe and secure manner all inmates remanded to the department's custody.

26. Are prison gangs dangerous and who are they a danger to? Please describe.

Answer:

Prison gangs have the potential to be a threat to the orderly operation of a facility. If allowed to operate outside the policies, prison gangs could present a potential threat to other inmates and staff.

27. Are prison gangs a threat to prison security? If Yes why? If no why?

Answer:

Prison gangs have the potential to be a threat to the orderly operation of a facility. If allowed to operate outside the policies, prison gangs could present a potential threat to other inmates and staff.

28. Do you think that housing a regular inmate (non-gang) with 15 separated prison gang members is dangerous to that regular inmate? If Yes why? If no why?

Answer:

That situation should be determined on a case by case basis, depending on the information available on all the inmates.

29. [missing]

30. How many inmates have been injured in gang violence that you know of? Are there any specific incidents that come to mind.

Answer:

I have no specific information or independent recollection as to this question.

RESPONSES TO INTERROGATORIES FROM
DEFENDANT JAMES PROPOTNICK

1. Please state name, position and duties.

Answer:

James Propotnick, Deputy Director of Public Safety, for Law Enforcement. I oversee the law enforcement division of the Department of Public Safety. I was first appointed to a position in the Department of Public Safety in January 2003.

2. Were you trained in regards to prison gang management and control what training or instructions did you have concerning policy and procedures concerning prison gang members. When were you trained what was involved and how long was the training or instruction.

Answer:

I have not attended any training specifically on prison gang management.

3. Were you specifically trained or instructed in regards to the challenged housing practice of separating prison gangs from rival prison gangs and housing them in certain areas of Halawa prison (Quads) to what extent did you understand that this housing practice could be applied (in other words was it allowed to house a regular inmate (non-gang) member in with separated prison gang members.

Answer:

I have not received any specific training in how to house prison gangs.

4. How long has the practice of separating rival prison gangs been in effect and what are the reasons for separating the rival prison gangs?

Answer:

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5. Did you know that a regular inmate (non-gang member) could be housed with separated prison gang members (if answer is Yes what do you think about this practice?)

Answer:

Yes. Housing inmates together involves some risk regardless of any other factors. Administrators can only operate on the information they have available to them, so as not to put two inmates together that have a known issue or problem with each other. Absent specific information to that effect, sound correctional practices should dictate.

6. What is a Quad (how many inmates in a Quad) (about how many if exact number is not known).

Answer:

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